

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 1793 of 1997

For Approval and Signature:

Hon'ble MS.JUSTICE R.M.DOSHIT

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1. Whether Reporters of Local Papers may be allowed to see the judgements?
2. To be referred to the Reporter or not?
3. Whether Their Lordships wish to see the fair copy of the judgement?
4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder?
5. Whether it is to be circulated to the Civil Judge?

BHANU M TRIVEDI

Versus

STATE OF GUJARAT

Appearance:

MR SP HASURKAR for Petitioner

M/S PATEL ADVOCATES for Respondent No. 1

Ms. V.P.Shah,with MS KJ BRAHMBHATT for Respondent No. 2

SERVED for Respondent No. 3

CORAM : MS.JUSTICE R.M.DOSHIT

Date of decision: 02/09/97

ORAL JUDGEMENT

Petitioner herein was serving as lecturer in the Respondent No. 2 Pharmacy College and retired on reaching the age of superannuation as Principal of the said

College. By filing this petition, the petitioner claims a right to receive pension for the service rendered by her under the respondent College. It is undisputed that the respondent No. 2 is a Non-Government Grant in Aid College affiliated to respondent No. 3 University. It is also not disputed that upon her retirement from the service, the petitioner has received the benefit of Contributory Provident Fund.

2. Under its Resolution dated 22nd March, 1993, the Government decided to introduce pension scheme for the teaching and non-teaching staff in the Non-Government affiliated Grant in Aid Pharmacy Colleges. Under the said Resolution, benefit of pension scheme has been granted with effect from 1st April, 1989 i.e. teaching and non teaching staff of the non-government Pharmacy Colleges who have retired from service on or after 1st April, 1989 have been given the benefit of the pension scheme. The petitioner having retired from service prior to 1st April, 1989, she is deprived of the benefit of pension scheme and instead, she has received the contributory pension fund.

3. Learned advocate Mr. Hasurkar appearing for the petitioner has submitted that all the Pharmacy College are discriminated against inasmuch as the staff of the other affiliated Colleges like Arts, Science, Commerce, B.Ed., College are given the benefit of pension scheme with effect from 1st April, 1982. He has relied upon the Government Resolution dated 15th October, 1984 and has submitted that all the other Colleges which are affiliated to the Universities of the State are governed by the Pension Scheme framed on 15th October, 1984 and given effect from 1st April, 1982. There was no earthly reason why the Pharmacy Colleges should have been deprived of the benefit of similar pension scheme with effect from 1st April, 1982. However, at last, the Government has decided to grant benefit of the pension scheme to the employees of the Non-Government Pharmacy Colleges but the same has been given effect from 1st April, 1989. He has submitted that there is no justification in introducing the said pension scheme with effect from 1st April, 1989 instead of 1st April, 1982. He has further submitted that the service conditions of the employees of the Pharmacy Colleges are prescribed by the University Grants Commission as is the case with the employees of other Non Government Grant in Aid College. The Pharmacy College are also affiliated to the Universities in the State of Gujarat. Said employees

should, therefore, be given benefits similar to the employees of the other non government grant in aid colleges.

4. As usual, though served, there is no representation on behalf of the Government. The Government has not filed any affidavit in reply justifying the introduction of cut off date of 1st April, 1989 for the introduction of pension scheme as far as the Pharmacy Colleges are concerned. It is not disputed that the Government has a right to introduce a cut off date for introduction of pension scheme to a class of employees. However, there should be reasonable nexus with the objects sought to be achieved by the introduction of such a scheme. If the employees of the other non-government grant in aid colleges are given the benefit of pension scheme with effect from 1st April, 1982, the Government should justify its action of introducing similar pension scheme for the employees of the Pharmacy Colleges with effect from April, 1989 and not from 1st April, 1982. As recorded hereinabove, in the present case, the Government has chosen not to appear before this Court to justify its action of introducing the pension scheme for the employees of the affiliated Non Government Grant in Aid Pharmacy Colleges with effect from 1st April, 1989.

5. Petition is, therefore, allowed. Respondent No.

1 State Government is directed to reconsider the date from which the scheme introduced under the Government Resolution dated 22nd March, 1993 [annexure "B" to the petition] should be given effect from. In the event, the employees of the non-government grant in aid pharmacy colleges are found to be similarly situated as the employees of the other non-government grant in aid Colleges affiliated to the University and governed by the recommendations made by the University Grant Commission, employees of the non-government affiliated grant in aid pharmacy colleges also be granted benefit of pension scheme with effect from 1st April, 1982 as is done in the case of the employees of other non government grant in aid affiliated colleges Such exercise shall be undertaken and completed within the period of six months from the date of receipt of writ of this order. In the event the claim for introduction of pension scheme for the employees of non-government grant in aid pharmacy colleges with effect from 1st April, 1982 is not accepted by the State Government, its decision shall be supported by speaking order. Rule is made absolute in terms

indicated hereinabove. There shall be no order as to costs.

Vyas